

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600

**Case No. A-5607**

**PETITION OF PETER & JULIE CONNOLLY**

OPINION OF THE BOARD  
(Hearing held June 27, 2001)  
(Effective date of Opinion: August 13, 2001)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(2). The Petitioner proposes to construct a one-story addition to the existing structure, which is to be located in the rear yard property. A variance from Section 59-C-1.323(b)(2) is required due to the fact that the proposed addition will encroach into the rear yard setback.

The subject property is Lot 5, Block 10, Wood Acres subdivision, located at 6203 Newburn Drive, Bethesda, Maryland, in the R-60 Zone. (Tax Account No. 00570411).

Stephen J. Orens, Esquire, and Scott Smith, the Construction Manager appeared on behalf of the petitioner.

Decision of the Board: Requested variance **granted**.

**EVIDENCE PRESENTED TO THE BOARD**

1. The petitioner proposes to construct a one-story addition in the rear yard of the property. The addition will serve to enlarge the existing kitchen, create an eating area off the kitchen and add a family room to the existing structure.
2. The Petitioner's lot is quadrilateral in shape and substantially different from the shape of neighboring lots in the area.
3. The Petitioner's construction manager testified that the subject property was recorded as a lot in 1940. The unusual shape of the lot creates an angular rear yard. The existing kitchen and dining area are located in the rear of the house and relocation of the kitchen would not be practical. Extending the existing kitchen makes the most practical sense. The

evidence also established that the proposed variance would not be detrimental to the use, peaceful enjoyment, economic value or development of the surrounding properties or the general neighborhood.

## **FINDINGS OF THE BOARD**

Based on the Petitioner's binding testimony and the evidence of record, the Board finds that the variance can be granted. The variance request complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

*(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific piece of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or undue or exceptional or undue hardship upon, the owner of such property.*

The Board finds that due to the exceptional shape of the property the strict application of the zoning ordinance would prohibit construction of petitioner's proposed addition.

*(b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the variance requested is the minimum reasonably necessary in order to overcome the exceptional conditions and for the proposed construction to proceed.

*(c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The proposed construction would continue the residential use of the property and the variance will not impair the intent, purpose or integrity of the approved general or area master plan.

*(d) The proposed construction will not be detrimental to the use, the peaceful enjoyment, the economic value or development of the surrounding properties or the general neighborhood.*

The Board finds that the proposed addition will not be detrimental to the use, peaceful enjoyment, economic value or development of the surrounding properties or the general neighborhood. No one appeared in opposition at the public hearing, and no letters of opposition were received into the record.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above be adopted as the Resolution required by law as its decision on the above titled petition.

On a motion by Donna L. Barron, seconded by Angelo M. Caputo, with Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution. Board members Louise L. Mayer and Mindy Pittell Hurwitz were necessarily absent and did not participate in the Resolution.

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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 13<sup>th</sup> day of August, 2001.

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Katherine Freeman  
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board may be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.